

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO 3485 OF 1998

WITH

CIVIL APPLICATION NO 5791 OF 1998

- 
1. Whether reporters of local papers may be allowed to see the order ?
  2. To be referred to the reporters or not ?
  3. Whether their lordships wish to see the fair copy of the order ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
  5. Whether it is to be circulated to the Civil Judge?
- 

AHMEDABAD MUNICIPAL CORPORATION  
VERSUS  
DINESHCHANDRA NAJMAL SHANKER

-----

Appearance:

MR RR MARSHALL for the Appellant-applicant

-----

Coram: S.K. Keshote,J  
Date of decision:30/09/1998

C.A.V. ORDER

#. This Appeal under Section 173 of the Motor Vehicles Act, 1988, is preferred by the Ahmedabad Municipal Corporation, Ahmedabad, against the judgment of the Motor

Accident Claims Tribunal (Aux.II), Ahmedabad (Rural) at Mirzapur, in MACP No.1208 of 1986 decided on 25th March 1998, under which Rs.49,500/= were awarded to the claimant-respondent as a compensation for the injury sustained by him in the motor vehicle accident by the vehicle of the appellant. The learned Tribunal has awarded interest on this amount of compensation to the claimant-respondent at the rate of 12% p.a. from the date of petition till the date of payment thereof. Costs have also been awarded.

#. Under this Appeal, claim has been restricted to Rs.20,000/=. The only contention made by the learned counsel for the appellant is that as a result of injury sustained by the claimant-respondent in the motor vehicle accident caused by the bus of the appellant, he has not suffered any economic loss and the Tribunal has committed serious illegality in awarding Rs.26,000/= as a compensation under the said head.

#. I have given my thoughtful considerations to the submissions made by the learned counsel for the appellant.

#. It is not in dispute that the disability on account of injury sustained by the claimant-respondent in the motor vehicle accident caused by the vehicle of the appellant was assessed by the medical expert at 20% of the body as a whole. At the time of accident his monthly pay was taken to be of Rs.2167/= on which also there is no dispute. On the basis of 20% disability of the body as a whole calculation has been made applying the multiplier of five. The learned counsel for the appellant failed to cite any provision from the Motor Vehicle Act or any authority of this Court or of Supreme Court where it has been laid down that in a case where though injuries have been sustained by the claimant-respondent, in case it has not resulted in economic loss, the Tribunal has no jurisdiction to award compensation under the head of future economic loss. Loss in present or immediate may not be there but because of the injury sustained by him there is a disability in his body and the compensation for this disability, the consideration is not of present loss or immediate loss. It is the compensation for the injuries sustained because of the rash and negligent driving of the driver of the vehicle of the appellant and to the extent where disability has been caused in the body of the victim, the compensation has to be awarded. In this case, in my opinion, this award is wholly towards the lower side. While making assessment of compensation, the Tribunal has

taken only the present income of the claimant and similarly, the multiplier of five applied is also towards the lower side.

#. Taking into consideration the totality of the facts of this case, I do not find any merits in this Appeal which calls for interference of this Court. In the result, this Appeal fails and the same is dismissed. As a result of dismissal of the Appeal, no order on the Civil Application. The Civil Application is dismissed.

(S.K.Keshote, J.)

(sunil)